

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BRIAN A., et al.,)	
)	
Plaintiffs,)	Case No.
)	3:00-cv-00445
v.)	
)	CHIEF JUDGE CRENSHAW
WILLIAM HASLAM, et al.,)	
)	
Defendants.)	

BEFORE THE HONORABLE
CHIEF DISTRICT JUDGE WAVERLY D. CRENSHAW, JR.

TRANSCRIPT OF PROCEEDINGS

June 8, 2017

APPEARANCES:

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1 The above-styled cause came on to be heard on
2 June 8, 2017, before the Honorable WAVERLY D. CRENSHAW, JR.,
3 Chief District Judge, when the following proceedings were
4 had, to-wit:

5 THE COURT: All right. Be seated. Good
6 afternoon. We're here on Case 00-445, *Brian A., et al.,*
7 *versus Donald Sundquist.* I guess it's now Haslam, et al.

8 If counsel can introduce themselves for the
9 record.

10 MS. DIXON: Your Honor, Jackie Dixon here on
11 behalf of the plaintiffs, and I have with me Ira Lustbader
12 and Daniele Gerard from Children's Rights in New York.

13 THE COURT: All right.

14 MR. LAKEY: And, Your Honor, for the State
15 defendants, Jonathan Lakey and General Alexander Rieger.

16 THE COURT: Okay. I know we're here today on the
17 State's motion to partially terminate the jurisdiction of the
18 Court based upon a 2017 modified settlement agreement and
19 exit plan.

20 First of all, let me -- let me say that y'all have
21 been at this case for quite a while, since 2000 to the
22 present. And your judge was Judge Campbell. Unfortunately,
23 back in December, I think, Judge Campbell retired from the
24 bench for health reasons, and I got assigned the case. And I
25 have not been able to catch up with you all over the last 17

1 years for a number of reasons, primarily because we're two
2 judges short in this district, which means Judge Trauger and
3 I are doing the work of four judges. And your filings in
4 this case I think exceed 600. And I simply have not had an
5 opportunity to review all of those and get up to speed so we
6 can take action. But it would be helpful today for you to
7 sort of give me an overview of where you are. I do note that
8 it appears significant progress has been made, and that goes
9 to the efforts of all the parties. And then maybe during the
10 hearing we can talk about some things that you can file after
11 the hearing that will help me get up to speed and put me in a
12 position that I can make a reasoned decision on these pending
13 motions. The Court anticipates I can catch up with the
14 parties, but I'm just not there yet. And I think if you make
15 some filings after this, I've got some in mind, and you may
16 have some in mind, it will help me review the pending motions
17 and get a ruling on it.

18 So with that said, I'll turn it over to you all.
19 Okay.

20 MR. LUSTBADER: Good afternoon, Your Honor.

21 THE COURT: Good afternoon.

22 MR. LUSTBADER: Ira Lustbader for plaintiffs.

23 Your Honor, I'll do my best to cast a broader context. And,
24 obviously, we can fill in whatever the Court would benefit
25 from in subsequent filings. But in a big-picture sense, Your

1 Honor, this is a class action Civil Rights lawsuit filed in
2 2000 on behalf of children who are or will be in the State's
3 foster care custody. It was settled through mediation under
4 a 2001 consent decree. And there's been ongoing jurisdiction
5 of the Court throughout that time. The I guess some 16-,
6 17-year history of the case under the Court's docket is
7 obviously significant, but the present procedural posture is
8 as follows: the parties' obligations are currently governed
9 by an April 2016 modified settlement agreement and exit plan.
10 And that's Docket 355.

11 In approving that 2016 document, Judge Campbell
12 ruled that defendants had achieved compliance, which the
13 parties and the Court refer to as maintenance status, of all
14 substantive obligations in Sections 2 through 13 and Section
15 16, which comprise approximately 140 improvement benchmarks
16 in the functioning of the Tennessee Department of Children's
17 Services.

18 THE COURT: And I went through the 2017 in
19 preparation for this. And I was -- and you all probably know
20 all of this. I'm the last one to the party here. How did
21 you reach these benchmarks? How did those come into being?

22 MR. LUSTBADER: So those benchmarks originally
23 were reached through a period of mediated settlement, which I
24 believe took a good six months, back in 2000 and early 2001,
25 with then the ongoing flexibility to modify some of them over

1 time. And they were informed by federal law and best
2 practice and policy and state policy in the field of child
3 welfare and particularly foster care with the input and
4 technical assistance of substantive mediators and monitors in
5 this case.

6 THE COURT: Did this TAC, the Technical
7 Assistance Committee -- has it -- has its members been the
8 same for the entire 17 years?

9 MR. LUSTBADER: Yes, Your Honor, and two of them
10 are here. Just to recognize Judy Meltser and Andy Shookoff,
11 who are both here in the courtroom.

12 THE COURT: The Court knows Mr. Shookoff well.

13 MR. LUSTBADER: Yes, I'm sure. And there are
14 actually others in addition to them.

15 And that grew from a single monitor to a body of
16 several Technical Assistance Committee folks who are both
17 serving as monitors, technical assistants and in a matter of
18 mediating any disputes between the parties. They have served
19 all of those roles for the entire time.

20 THE COURT: So what was the -- what was the
21 State's role with the Technical Assistance Committee? Did
22 you have a member on the roll?

23 MR. LUSTBADER: They didn't have a member, Your
24 Honor. The TAC, or T-A-C, Technical Assistance Committee,
25 served to help provide the State leadership with technical

1 assistance in implementing the settlement and building
2 technical capacity and quality assurance capacity within the
3 agency over the years. That was one of the agreed roles.
4 Because of their national reputation they've been able to
5 bring in a wide range of technical experience and assistance
6 in the implementation process.

7 THE COURT: And if the State -- and I guess did
8 you have instances where the State asked for modifications
9 and --

10 MR. LUSTBADER: All of the ongoing modifications
11 to either particular measures, or under this structure, what
12 happens is each time a new set of deliverables fell into this
13 maintenance category, we would then have a joint modification
14 presented for approval, so then the actual operative decree
15 would always be current with all the items that were in
16 maintenance or compliance and those hadn't -- that had not
17 yet reached it.

18 THE COURT: And what happened to all the children
19 while all this was going on?

20 MR. LUSTBADER: I'm sorry?

21 THE COURT: What had happened to the children, I
22 guess the members of the class?

23 MR. LUSTBADER: So the class itself has fluctuated
24 from upwards of I think 8- or 9,000 down to 4,000. It's
25 currently around 6,000. And it was brought on behalf of nine

1 individual named plaintiff representative children.

2 And so in terms of the functioning and the
3 well-being of the class, that is the core of what these
4 obligations reflect in terms of improvements in the
5 infrastructure and outcomes for these kids.

6 THE COURT: But over 17 years, I would assume
7 you've had children who --

8 MR. LUSTBADER: Correct.

9 THE COURT: -- were in the class and are no longer
10 in the class.

11 MR. LUSTBADER: So the class was designed as fluid
12 from the beginning.

13 THE COURT: Yeah.

14 MR. LUSTBADER: And so obviously you have folks
15 that enter custody, then they may leave custody either
16 because they're reunified with their biological families or
17 they're adopted by either family members or strangers or by
18 their foster parents. You have children who might achieve
19 guardianship with a family friend. You have children who
20 might age out and then leave the system that way.

21 THE COURT: And then new children coming in?

22 MR. LUSTBADER: Correct. A constantly fluid
23 class. And so the case was always from its inception about
24 ensuring the accountability over this agency, the Department
25 of Children's Services, to make sure it had the aggregate

1 tools and infrastructure to serve the whole fluid class on an
2 ongoing basis.

3 And so a lot of the metrics that you'll see in the
4 monitoring reports reflect aggregate data and performance on
5 this fluid class. And that's why we needed the technical
6 assistance of a monitoring team that would be the least
7 intrusive way to report on performance on this fluid class
8 and on these aggregate measures.

9 THE COURT: And did the class members have a lead
10 class member or did -- how were their -- how did we solicit
11 the input of the members of the class?

12 MR. LUSTBADER: So it being a minor class, the
13 initial plaintiffs were minors represented by next friends.
14 And then when the class was certified and then the settlement
15 included a certified class, class counsel was appointed to
16 represent the interest of the class throughout this
17 litigation. And so class counsel has represented the
18 interest of the minor class throughout --

19 THE COURT: And that's you.

20 MR. LUSTBADER: And that's myself and Ms. Dixon --

21 THE COURT: Ms. Dixon.

22 MR. LUSTBADER: -- and Mr. Raybin and then folks
23 both out in Memphis and in Knoxville as well. There are
24 members of the team there.

25 THE COURT: All right. Thanks.

1 MR. LUSTBADER: So, Your Honor, under the 2016
2 modified settlement agreement, and again that's Docket 355,
3 with all 140 obligations in maintenance status, and that was
4 hit last spring, defendants then had the opportunity to show
5 that they could sustain that maintenance status for 12
6 months. So put another way, the parties defined --

7 THE COURT: You're saying 355. Do you mean 555?

8 MR. LUSTBADER: Yes, Your Honor.

9 THE COURT: All right. Good.

10 MR. LUSTBADER: My mistake. Nice catch. Yes,
11 555.

12 THE COURT: Okay.

13 MR. LUSTBADER: And so the idea there was that the
14 parties defined the durability of these achievements that
15 would be necessary to request termination of jurisdiction,
16 meaning that if you could hit all of these measures and then
17 hold them for 12 months, right? the -- the defendants would
18 then be able to file a notice of compliance that seeks
19 partial termination of jurisdiction over all of those
20 obligations, leaving only one, which is Section 19, which
21 says that if the Court decides to terminate partially
22 jurisdiction over all those measures, Section 19 creates an
23 internal -- external accountability center, which would then
24 continue public reports for 18 months, every six months, on
25 how the agency is doing, as a measure of keeping public

1 accountability just under that piece.

2 THE COURT: Okay. Go to page -- well, I'm looking
3 at Document 579-1, which is your 2000- --

4 MR. LUSTBADER: '17.

5 THE COURT: That's the 2017. But I think I read
6 that the definition of maintenance has not changed.

7 MR. LUSTBADER: Correct.

8 THE COURT: Okay. So walk me through Number 2,
9 what maintenance means. And it looks like it's the same --
10 or nearly the same as 3.

11 MR. LUSTBADER: So the idea of maintenance, Your
12 Honor, is there are items in the --

13 THE COURT: Benchmarks?

14 MR. LUSTBADER: There are benchmarks and
15 processes. So there are some things that have numbers
16 attached to them and there are some obligations that don't
17 have numbers attached to them. And so the parties agreed
18 with -- with the monitors' help that maintenance would mean
19 what is the level of performance, whether you hit the
20 minimum, if it's a number benchmark, or if you hit the
21 qualitative judgment in terms of performance through the
22 monitors' input on a particular process, that would allow you
23 to exit. And then you would have to maintain at least that
24 level of performance as determined by the monitors for 12
25 months in order to earn that right to ask for exit.

1 THE COURT: And the monitors is the TAC?

2 MR. LUSTBADER: Yes. And we vested the monitors,
3 the TAC, with the authority to make that decision.

4 THE COURT: And they issued a report yearly?

5 MR. LUSTBADER: Yes. At least yearly. Right.
6 And so -- that's correct, Your Honor. And so the -- the TAC,
7 after the April 2016 modified settlement agreement was
8 approved and all 140 measures were found to be in
9 maintenance, then this year the TAC filed two reports, one
10 dated March 28th and filed on April 4th, and that's Document
11 576, and a supplement --

12 THE COURT: May 15?

13 MR. LUSTBADER: May 15th. Correct. And so based
14 on those reports, Your Honor, the parties then filed and
15 requested that the Court approve this April current version
16 2017 modified settlement agreement and exit plan. And that
17 was filed on May 16th, and that's 579.

18 THE COURT: I got 579. And what was the first one
19 you filed? The March report is document what now?

20 MR. LUSTBADER: So the two reports filed by the
21 monitors, the TAC, this year are Documents 576 and 578.

22 THE COURT: Are they the same?

23 MR. LUSTBADER: No.

24 THE COURT: Okay.

25 MR. LUSTBADER: One is a -- a whole annual look at

1 that 12-month period assessing whether they held their
2 performance --

3 THE COURT: That's the first one?

4 MR. LUSTBADER: That's the first one. And then
5 the second one is a supplement that provides, you might say a
6 qualitative overlay to the overall performance and readiness
7 for exit. And so based on these reports the parties jointly
8 filed and requested that the Court approve the April 2017
9 document, 579. And that submission is one of the submissions
10 that's pending before Your Honor now.

11 THE COURT: So is it Document 576 that justifies
12 the maintenance designation and the benchmarks in the '17
13 plan?

14 MR. LUSTBADER: Correct, 576 and 578.

15 THE COURT: Of course, that's the one that I don't
16 have, but that's okay.

17 MR. LUSTBADER: And then the joint stipulation
18 filing, that joint filing of 579, also describes the funding
19 and functioning of this internal -- external accountability
20 center in terms of who will run it, the content of what
21 they'll report on and the frequency, and how it will be
22 staffed for 18 months. If -- that period of 18 months only
23 begins if and when the Court grants the partial termination
24 of exit.

25 THE COURT: All right. Then going back to

1 maintenance definition, maintenance really is whatever the
2 TAC determines has reached substantial compliance?

3 MR. LUSTBADER: Well, yes, except on items that
4 have minimum numbers -- in order to initially get into
5 maintenance, you have to have hit the minimum number. And
6 then what's happened over time, Your Honor, as typically more
7 items would come into maintenance, occasionally they would
8 slip a few and they would come out. If there was a dispute
9 over it, the monitors would lend whether a slippage was not
10 significant enough to take them out of maintenance, or a
11 one-time thing, and most of the time the parties agreed to
12 that. But in any event the monitors would get to make that
13 determination. So over time that number of maintenance
14 worthy categories kept expanding.

15 THE COURT: And then do I gather that the
16 monitors, which is really the Technical Assistance
17 Committee --

18 MR. LUSTBADER: Correct.

19 THE COURT: -- has at all times been in
20 communication with the State, the Department?

21 MR. LUSTBADER: Deeply so, Your Honor. And the
22 monitors have actually had full-time staff embedded within
23 the agency tapped into their ongoing data systems with full
24 access to staffing and data and reporting so they can
25 interview and access information realtime year round.

1 THE COURT: So I gather -- and this is -- this is
2 really helpful. The 2001 consent decree created an agreement
3 regarding injunctive relief.

4 MR. LUSTBADER: Correct, prospective injunctive
5 only.

6 THE COURT: Only. There's no request here for any
7 damages.

8 MR. LUSTBADER: Correct, no damages.

9 THE COURT: Okay.

10 MR. LUSTBADER: This is prospective injunctive
11 relief for a fluid certified class of --

12 THE COURT: And what about attorneys' fees?

13 MR. LUSTBADER: Attorneys' fees was also agreed to
14 in the 2001 agreement, and over time has actually been
15 negotiated and then periodically approved each time by the
16 Court.

17 THE COURT: And who's been -- how did they get --
18 are there any attorney fee issues remaining?

19 MR. LUSTBADER: The last one was actually entered
20 probably several months ago, and presumably there would be
21 one more that we would jointly negotiate at some point that
22 brings us forward.

23 THE COURT: And was that determined by the
24 monitors?

25 MR. LUSTBADER: No. The attorneys' fees have very

1 efficiently actually been determined through negotiation
2 between both sides.

3 THE COURT: Okay.

4 MR. LUSTBADER: And then a joint presentation to
5 the Court for approval with all the underlying documentation.

6 THE COURT: So in the 2017 report you're telling
7 the Court I think that since December of 2015 -- is that
8 right? -- things -- all the benchmarks have been in
9 substantial compliance or maintenance?

10 MR. LUSTBADER: Correct. So -- so the -- the
11 12-month period that brought all of these items into
12 maintenance ended at the end of 2015 calendar year.

13 THE COURT: Oh.

14 MR. LUSTBADER: And then the 12-month period that
15 the parties and the TAC are agreeing allows them to show that
16 they held it for 12 months, that ended in the end of '16
17 calendar year. And so that's why the early '17 reports and
18 the current papers before, Your Honor.

19 THE COURT: Okay.

20 MR. LUSTBADER: And so, Your Honor, from our
21 perspective, as plaintiffs obviously deeply immersed in this
22 from the beginning, we have very thoughtfully determined that
23 we do not oppose -- we do not object to the notice of
24 compliance and request for partial termination. And that's
25 because the infrastructure process and outcome improvements,

1 Your Honor, that defendants have achieved we believe
2 represent truly significant system transformation in this
3 case, particularly when one looks at where the agency was
4 when the action was filed. The system has been through
5 several governors and many -- several times more
6 commissioners in 16 years, and certainly periods of rapid
7 improvements and occasional setbacks. We sought Court
8 intervention on several occasions throughout the life of the
9 case, which we can supplement for Your Honor, but in the big
10 picture, consistently the parties, with the active
11 involvement of the TAC, and the Court whenever necessary,
12 were able to address each time there was a request for court
13 intervention and actually resolve them with negotiated
14 remedies that were filed with the Court.

15 And so by meeting and sustaining these
16 140-some-odd improvements, we believe that the defendants
17 have met the durability requirements that the parties agreed
18 would be a prerequisite to them asking for a partial
19 termination of exit. And I'd like to just in a few minutes
20 give the Court a sense, at least in a big picture sense, of
21 what these areas of improvements are so Your Honor can get a
22 context. And again, happy to supplement -- and the
23 monitoring reports bring this to life both in terms of data
24 and qualitative assessments. But we thought it might help
25 for the Court just to see what -- get a sense of what those

1 areas were that -- the well-being and improvements for
2 children have been achieved if that's okay.

3 THE COURT: Oh, that would be perfect. And just
4 so I'm following along, this is going to cover the benchmarks
5 from III to -- well, go ahead -- XV?

6 MR. LUSTBADER: Right. II through XIII.

7 THE COURT: Oh, just XIII.

8 MR. LUSTBADER: And Section 16. And so -- the
9 detail underneath those is quite significant. What I had
10 proposed to share with the Court was sort of a categorical
11 sense of the critical work of the Department in protecting
12 children that those sections capture.

13 THE COURT: Okay.

14 MR. LUSTBADER: And why achieving and sustaining
15 maintenance is a significantly -- worthy of exit achievement
16 as it's been measured. And so those areas include -- just
17 sort of listing them -- reduced frontline case loads for the
18 workers and supervisors that protect and ensure the service
19 needs of children are provided in foster care, improved
20 training of staff, increased case worker visits of children,
21 improved and frequent assessments of children's needs, the
22 creation of a child and family team meeting model for the
23 ongoing involvement of children and families throughout their
24 experience with the Department and in family court, more
25 children in family settings and less use of institutions and

1 facilities to house children, more children placed closer to
2 their homes and communities of origin when they're removed
3 into foster care, children moved around less frequently and
4 matched and placed more appropriately to actually meet their
5 needs, an improved data system, Your Honor, as well as
6 improved fiscal management and quality assurance capacity and
7 the capacity for tracking and investigating child deaths when
8 those do occur, improved oversights over the administration
9 of psychotropic medications and the use of physical
10 restraints on children in custody in foster care, more kids
11 reunified with their biological families and reunified
12 faster, and for those kids who can't be reunified, more kids
13 achieving permanency, permanent homes, through adoption or
14 guardianship, children in foster care spending actually less
15 time in state custody and safely staying out of custody. In
16 terms of family connections and wellbeing, increased
17 parent/child visits when my children are removed and brought
18 into state custody, more siblings being placed together, and
19 when they're not, visiting and otherwise connecting with each
20 other, heightened efforts, Your Honor, to address racial
21 disparities in the system, including the ability to track
22 outcomes by race, increase recruitment of African-American
23 homes, foster homes, the use of subsidized guardianship as an
24 alternative to terminating parental rights, and a more
25 diverse workforce and competency training for staff, also

1 better educational services in terms of children being served
2 in local community schools as opposed to very inappropriate
3 on-site schools, which were often attached to the use of
4 emergency shelters, which when we brought the case was really
5 the core array of housing for children. There were sort of
6 large orphanage-style placements and a lot of emergency
7 shelters, and those have been shut down, and with them they
8 closed down a lot of these on-site schools, and children are
9 now served more with families and go to school in their
10 communities. That was a big push with -- within the lawsuit.
11 And then, finally, improvements, Your Honor, in services to
12 help older youth live independently, including the use of
13 something called extended foster care, which allow children
14 once they reach the age of 18 to maintain in the custody --
15 in the services of the Department.

16 So for -- in all these areas, Your Honor, the --
17 there is data and qualitative support in hundreds -- as you
18 know, hundreds of pages of monitoring reports. But we think
19 they do warrant granting the partial exit that defendants
20 request. Although that said, I want to underscore for the
21 Court how important plaintiffs' view, even if the Court is
22 inclined to grant partial termination of jurisdiction, how
23 important continued vigilance is for the class and the
24 services for parties and stakeholders and the Legislature to
25 ensure that the agency is appropriately resourced, Your

1 Honor, and able to address challenges going forward. I think
2 the agency, as transformed as it's been, and as we fully
3 acknowledge that it is, and worthy of exit, is, in the TAC's
4 own words, far from perfect. It's a very challenging agency
5 to run. And there will be both current and future challenges
6 that beset it. And so the question is always is there the
7 infrastructure and array of services and supports that it can
8 react to pressures going forward.

9 And as the Court may be aware, there was one
10 recent challenge to that that was reflected in media reports
11 that had reported on a number of children who had to sleep
12 overnight in DCS offices because there was a -- a narrow
13 influx of some older kids coming into care in Davidson County
14 and they were unable to immediately meet the needs of those
15 kids. And we've been working very frequently with both the
16 TAC and the defendants over the past quite a few weeks and --
17 to confirm that no other children have slept over night in
18 any kind of agency office and that the agency is on top of
19 that particular challenge, showing that it's poised to be
20 able to realign resources to deal with these kinds of
21 short-term or region specific challenges in the placement
22 population.

23 And so based on our discussions with the
24 Department and the -- and the monitors, even with this most
25 recent challenge, we continue to believe the defendants'

1 request for a partial exit is entirely appropriate. And in
2 their last monitoring report, I think the monitors reflect
3 this need for continued vigilance going forward from all
4 advocates and all sides in saying that the success of
5 Tennessee's reform required years and continued focus and
6 hard work by the DCS leadership, the front line staff,
7 private providers, resource, parents, advocates, and
8 consistent support for that work from Governor and the
9 Legislature, Your Honor, and that sustaining and building on
10 that success will require no less from all of those parties
11 going forward, even if the Court does grant the partial
12 termination and exit.

13 And I wanted to on behalf of plaintiffs, if it's
14 okay, just take another minute or two --

15 THE COURT: Sure.

16 MR. LUSTBADER: -- to commend the work of DCS
17 leadership. Over the years we've had a really transparent
18 relationship agreeing most of the time, but not always, but
19 always in moving the agency forward to address the challenge
20 that beset it. And we do commend their leadership in
21 reaching this point, especially the current DCS Commissioner,
22 Bonnie Hommrich, her predecessor, Jim Henry, and the early
23 work of Commissioner Viola Miller. They were instrumental in
24 bringing the reforms forward to the point that they've
25 reached today, and as well as the ongoing support of DCS by

1 the Governor.

2 We also commend the thorough and consistent work
3 of the TAC, the monitors in this case, Your Honor, in
4 assessing performance, providing the parties constant
5 technical assistance, and in helping the parties work through
6 concerns and even disputes, which allowed us to really
7 minimize the delay and expensive court intervention to very
8 few times over the 15 years. We also very humbly recognize
9 the extraordinary service and vigilance of Judge Campbell in
10 this action, who really kept the parties accountable, saw
11 through the progress and helped address the setbacks, and
12 really kept this case so close in his sights for 16 years.
13 And I wanted to say that on the record, Your Honor.

14 THE COURT: I wish he could have it in his sights
15 right now.

16 MR. LUSTBADER: Finally, Your Honor, I wanted to,
17 if it's okay, personally recognize Daniele Cash, who is in
18 court today. She's -- would you just stand up; waive to the
19 judge. This extraordinary young woman was one of the
20 original named plaintiff children in this action. And her
21 strength and perseverance while in foster care, and beyond as
22 a young adult, Your Honor, and in being able to see today's
23 action reach today's milestone at least in our jointly
24 presenting the readiness of the agency for this big step
25 really carries our deep gratitude and was worthy in our view

1 of recognizing to the Court. It's really for her and others
2 like her that we brought this case in the first place. And
3 also next to her, one more, Your Honor, is Ms. Juanita Veasy.
4 If you don't mind stepping up. Ms. Veasy is the executive
5 director of the Black Children's Institute in Tennessee. And
6 she was one of the original adult next friends way back when
7 we filed. And I want to publicly thank her as well for her
8 extraordinary commitment to children and families and to this
9 case. They've really been a huge value in informing the
10 process going forward and keeping everyone motivated towards
11 the end result. So those are sort of my broad comments, Your
12 Honor.

13 THE COURT: Sure.

14 MR. LUSTBADER: And again, happy to fill it all
15 in.

16 THE COURT: Well, first of all I guess for
17 Ms. Cash and Ms. Veasy, are you all satisfied with where we
18 are today?

19 MS. VEASY: Yes and no. I think they still have a
20 lot more work to do. There are some concerns that we do
21 have, but I also think they have made enormous progress from
22 where we started, but still there are concerns, and I realize
23 that it's not perfect, but we need to work on it.

24 THE COURT: All right. Ms. Cash?

25 MS. CASH: Yes, Your Honor, I am.

1 THE COURT: Okay. Well, I appreciate you all
2 being here. That's important to the Court. If we grant the
3 partial termination of jurisdiction and the exit plan, what
4 remains then of the Court's jurisdiction?

5 MR. LUSTBADER: Section 19 --

6 THE COURT: Okay.

7 MR. LUSTBADER: -- Your Honor. And that's the
8 creation and the functioning of the external accountability
9 center, which the parties have agreed -- and it's in the --
10 the joint filing that describes that it's comprised by the --

11 THE COURT: Just to make sure that gets done and
12 funded?

13 MR. LUSTBADER: That it's done and funded and
14 who's playing the role -- the external parties organizations
15 are the Chapin Hall Center for Children at University of
16 Chicago and Vanderbilt Center for Excellence here in
17 Tennessee. They're collaborating and functioning as this
18 external accountability center.

19 THE COURT: And where does the funding come from?

20 MR. LUSTBADER: DCS.

21 THE COURT: Okay. That's what I thought.

22 MR. LUSTBADER: Yeah.

23 THE COURT: Well, one thing -- and -- that will be
24 helpful after this -- and you've sort of begun that process
25 at a high level -- but maybe in a filing do it a little bit

1 more detailed level with citations to the docket entries as a
2 chronology of the case up to this point. In particular --
3 you can tell I had some questions about the class --

4 MR. LUSTBADER: Uh-huh.

5 THE COURT: -- and what relief they're seeking and
6 how they were -- how we got their input. I don't know --
7 I'll leave it to you all to determine what I need to know
8 about the various developments from the Technical Assistance
9 Committee. I don't need to get terribly into the weeds, but
10 I gather -- and maybe I am still not hearing this right --
11 that there has been over the years a progression of progress.

12 MR. LUSTBADER: Indeed.

13 THE COURT: And maybe in your filing you can just
14 outline that to me with docket entries to I guess the
15 technical assistance annual report.

16 MR. LUSTBADER: That's exactly right, Your Honor.

17 THE COURT: So I can go back and look.

18 MR. LUSTBADER: And so what I'm understanding, and
19 please let me know if I got this right. But perhaps a way of
20 chronologically showing the number, the quantum, of
21 obligations that increasingly came into maintenance over
22 time.

23 THE COURT: Right.

24 MR. LUSTBADER: How that steadily built trend-wise
25 until we got to this point.

1 THE COURT: Right. And I guess all of this
2 started -- and we sort of figured that part out -- with
3 the -- maybe it's Document 190, way back. The -- I think
4 that's the -- yeah. The stipulation of settlement of
5 contempt motion. But prior to that there was a settlement
6 agreement.

7 MR. LUSTBADER: The settlement agreement was in
8 2001. And then the -- there was an initial period of less
9 than progress, Your Honor, that led to the contempt motion in
10 around '03, and that was resolved in '03 and '04 with some
11 refined obligations.

12 THE COURT: So does everything that we've done --
13 you all have done, rather, stemmed from Document 190, and
14 that's the stipulation of settlement of contempt motion?

15 MR. LUSTBADER: I would say everything that's been
16 done begins with that 2001 consent decree. And then the --
17 the contempt motion was an enforcement proceeding that
18 resulted in some early modifications and some remedies. And
19 there have been a few other points where there have been some
20 other modifications and remedies.

21 THE COURT: And --

22 MR. LUSTBADER: But throughout --

23 THE COURT: And when you say the 2001 settlement
24 agreement -- I don't know if you have it -- is that Document
25 109?

1 MR. LUSTBADER: I can't confirm it here.

2 THE COURT: Okay.

3 MR. LUSTBADER: But I will in a post filing, Your
4 Honor.

5 THE COURT: Let's pass -- let me pass -- if the
6 court officer can pass this to him. Just -- this is my copy.
7 I just want to make sure I've got the right one. That's the
8 document from which everything flows? No?

9 MR. LUSTBADER: Yes.

10 THE COURT: Good.

11 MR. LUSTBADER: Yep. Yep.

12 THE COURT: Okay. I'll have that back. Okay.
13 Thanks.

14 All right. Thank you.

15 MR. LUSTBADER: Thank you.

16 MR. LAKEY: Good afternoon, Your Honor.

17 THE COURT: Good afternoon.

18 MR. LAKEY: Again, my name is Jonathan Lakey and
19 I'm one the attorneys representing the State defendants in
20 this case, and General Alexander Rieger is with me at counsel
21 table. And I wanted to take a moment, with the Court's
22 indulgence, to introduce you to Commissioner Bonnie Hommrich.

23 THE COURT: Glad to have you here.

24 MR. LAKEY: Commissioner Hommrich has been
25 involved in this area of work -- this has been her life

1 passion -- both in Tennessee and other states before
2 Tennessee. And she's been the Commissioner I think since
3 August 2015. And really we have made great strides under her
4 leadership and her predecessor, Jim Henry, who is now chief
5 of staff to Governor Haslam. And they both deserve a lot of
6 credit for the progress that has been made.

7 I wanted at the outset just say that I didn't have
8 any issue or disagreement with what Mr. Lustbader said in
9 regard to maintenance or any of the questions you posed to
10 him. And it's a reflection, I think, of how the parties
11 have, certainly over the last five years, tried to work
12 together to make progress on this case. Because while
13 we're -- we urgently, obviously, want to end federal
14 oversight of a state department, and as any department would
15 want to do, most importantly, we -- we want to do that
16 because it's a reflection that DCS is providing the critical
17 services it provides to some of our most vulnerable children
18 in the State at a level of professionalism that has been
19 recognized by some really strong advocates and really strong
20 monitors. And so, you know, I always have tried to keep that
21 in mind as the attorney for the State, that at the end of the
22 day, progress in reaching the milestone of having the Court
23 terminate its jurisdiction is a reflection of the services
24 that are being provided by DCS to the children that it
25 support. And I may go over some of the things that

1 Mr. Lustbader did and touch upon them, but I'm going to jump
2 around a little bit based on the things that he's talked
3 about. But we are here obviously today -- and there's really
4 two things that are in front of the Court. One is to ask the
5 Court for the approval of the 2017 exit plan.

6 THE COURT: That's the joint -- that's Document
7 579.

8 MR. LAKEY: That's exactly right, Your Honor.

9 THE COURT: Okay.

10 MR. LAKEY: So that's one thing. And what -- and
11 I'll have to admit to the Court, I didn't get involved in
12 this case until 2012. So Mr. Lustbader has got me beat by a
13 large margin. But since we -- since I've been involved, what
14 has happened is we've made that presentation, and generally
15 what Judge Campbell would do, would actually just reenter the
16 exit plan with his signed version. And you probably have
17 seen that in the prior docket history.

18 THE COURT: And I guess -- I was going to ask
19 you -- and then the other item before the Court is Document
20 Number 583.

21 MR. LAKEY: Yeah.

22 THE COURT: Which is not styled as a motion. And
23 you may want to correct that. But I think what you want me
24 to do is to enter some version of 583-1.

25 MR. LAKEY: That's right. And so it's styled the

1 way it is just to technically comply with the provision of
2 the exit plan, Section 18D2, if I remember correctly --
3 although I have to double-check that. Section 18D2 tells us
4 what to do once the required provisions have been in
5 maintenance for 12 months. We were supposed to file a notice
6 of compliance and attach to it a proposed order, which is why
7 we actually -- we attached the proposed order. But I
8 certainly can restyle it as a motion for purposes of -- of
9 allowing the Court to enter an order since that's how we
10 speak to the Court normally.

11 THE COURT: And I think -- maybe you can do it as
12 a joint motion and then maybe style it under Rule 23 because
13 what you're really asking me to do is enter final -- no.

14 MR. LAKEY: No, because we are --

15 THE COURT: I was going to say final permanent
16 injunctive relief under Rule 23.

17 MR. LUSTBADER: Your Honor, it would be an order
18 approving partial termination of jurisdiction over those
19 sections.

20 THE COURT: Except for 19.

21 MR. LAKEY: Except for Section 19. That's exactly
22 right.

23 MR. LUSTBADER: Based on performance, not as a --
24 not as a settlement or compromise of the obligations, but
25 based on the agency's performance, asking the Court to enter

1 an order saying they've partially terminated jurisdiction
2 over all of those provisions except for 19.

3 THE COURT: But couldn't -- can't -- the only
4 thing before -- well, how can I -- what's -- what's -- isn't
5 Rule 23 the reason I can do this?

6 MR. LUSTBADER: Well, 23 allowed the -- the
7 consent decree to begin and the class, obviously, to feed
8 the -- the jurisdiction to do that.

9 THE COURT: And everything's flowing from that
10 document.

11 MR. LUSTBADER: Everything flows from the consent
12 decree, and then the request is to peel off, as it were,
13 jurisdiction over a large chunk of that consent decree
14 jurisdiction-wise because of performance.

15 THE COURT: Uh-huh.

16 MR. LUSTBADER: And then just keeping that one
17 other item.

18 THE COURT: Well, then -- this was my next
19 question. What's the level of my review here then?

20 MR. LUSTBADER: (Indicating)?

21 THE COURT: What's my standard of review? Because
22 I thought it would be under 23. But sounds like you're
23 not -- what's the standard of review for me to approve this?

24 MR. LAKEY: Respectfully, Your Honor, I think
25 it's -- it's almost a self-effectuating settlement agreement

1 and exit plan, which was approved at the outset by the
2 District Court, and calls for the Court to terminate its
3 jurisdiction upon the performance that the State has now --
4 has now demonstrated.

5 THE COURT: Well, then you can lay that out in
6 your chronology. And please give me some legal authority.

7 MR. LAKEY: Yes, Your Honor. Shall do.

8 THE COURT: Okay.

9 MR. LAKEY: And -- and so -- and I know the
10 Court -- having -- having joined this case midstream and been
11 well into the docket history at the time I came in, I
12 understand the -- what the Court is going through in regard
13 to -- to ensuring itself in regard to the -- through the
14 relief that's requested.

15 THE COURT: And I don't doubt -- like I said in
16 the beginning, you all have worked incredibly hard over the
17 years and made incredible process. And it's to be
18 complemented. I still have to exercise the appropriate --

19 MR. LAKEY: Right.

20 THE COURT: -- review and independent judgment
21 here.

22 MR. LAKEY: Without a doubt.

23 THE COURT: Okay.

24 MR. LAKEY: And so in many ways I think where we
25 are today kind of, in some respects, dates back to the

1 modified settlement agreement and exit plan that was entered
2 in 2010, I think in November of 2010, at ECF Number 411,
3 which I think set forth the actual provisions we're operating
4 under today. And as Mr. Lustbader said, there's about -- in
5 the required provision that we had to come into substantial
6 compliance with, or maintenance, as the term has been used in
7 this agreement, there's about 136 of those. So it's
8 pretty -- it's a pretty taxing agreement. So between 2010
9 and today, there have been a series of revised exit plans
10 filed and approved by the Court, mostly on an annual basis,
11 but there was one year that was skipped. And then the relief
12 that we're seeking today primarily rests from the approval of
13 the 2016 exit plan to where we are today. And so that's
14 where my focus will be just real briefly.

15 As is set forth in the 2016 exit plan, which I
16 think you've already referenced, but is at Docket 555 --

17 THE COURT: Uh-huh.

18 MR. LAKEY: -- defendant's obligations really are
19 two to get the relief that we're seeking. And the first is
20 to come into full maintenance with the provisions of Sections
21 2 through 13 and Section 16. The April 2016 exit plan
22 establishes on its face that we did that. Because when you
23 look at it, you'll see maintenance by every of those
24 provisions, and that was approved by Judge Campbell. That's
25 step one. The second step then is the 12 consecutive months

1 of holding that maintenance. And that's where we are today,
2 and respectfully submit we've achieved. Now, the status --

3 THE COURT: And the monitors have confirmed that?

4 MR. LAKEY: That's right. And that's what I was
5 going to point to. So where does the basis come from? So
6 the defendant's activities have been closely monitored by the
7 Technical Assistance Committee, the TAC, and plaintiffs'
8 counsel. And as Mr. Lustbader said to you, and truly when I
9 first got involved, I was surprised as a lawyer -- you can
10 imagine my reaction as a defense attorney -- to find out that
11 TAC is actually embedded in their offices. They have offices
12 right next to DCS staff. They have access to their system.
13 They can interview anybody they want. They had realtime
14 information. And while I had a kind of a reflex to that, it
15 worked because of the joint efforts to try to make sure the
16 system was doing what it needed to do. But it also, I think,
17 should provide the Court with some comfort to know that the
18 TAC wasn't simply relying on information we provided to it.
19 It's getting the information directly and on a daily, ongoing
20 basis. And so it's both their reports that I think are
21 important to the Court and then the prior exit plans that
22 showed the maintenance status that was approved by Judge
23 Campbell.

24 THE COURT: And the progress over those years?

25 MR. LAKEY: Over the years, Yes, Your Honor. And

1 as you've already pointed out, we can set that out in a chart
2 or somehow make sure that's reflected so it's easy to follow.
3 Especially since there are so many docket entries.

4 But the 2016 exit plan certainly from DCS's
5 perspective, from say defendants' perspective was a milestone
6 for us, because that exit plan, which was based on the TAC
7 reports about our -- about our efforts in 2015 -- and those
8 TAC reports are -- I think they were filed -- let me see --
9 I've got a note on that. I'll find that. Oh, the TAC
10 reports were -- were filed at 552-1 and 554-1. They provided
11 the support for a finding of maintenance in the 2016 exit
12 plan as to all of the required provisions. Having come into
13 main -- and one other point to be really clear about. And
14 Mr. Lustbader already touched on this. The TAC reports and
15 the parties' joint stipulation in the filing and the
16 statements we made before Judge Campbell when he approved the
17 2016 exit plan made it very clear that maintenance had been
18 achieved on or about December 31, 2015. That started the
19 clock ticking. Remember the TAC reports of early 2016 were
20 based on 2015 information. So having come into maintenance
21 by 12/31/2015, under Section 18D2 of the exit plan, the 2016
22 exit plan, and all the ones before that, we had to sustain
23 maintenance for 12 consecutive months, and then we would be
24 in a position to file the notice of compliance and seek the
25 order of partial dismissal.

1 And as the Court has already said, and as
2 Mr. Lustbader has said, just like we did in regard to 2016,
3 ultimately, here, the parties, the TAC, all agree that --
4 that the defendants have maintained or sustained maintenance
5 for the year 2016.

6 So from that December 31, 2015 date through
7 December 31, 2016, there is no dispute among the parties or
8 the TAC that the State was in maintenance with all the
9 required provisions of Sections 2 through 13 and Section 16.
10 And what I really wanted to note for you is, I think that is
11 made clear in at least four different places that I wanted to
12 give the Court a reference to today. One is the TAC reports
13 of April 4, 2017 and May 16, 2017 that Mr. Lustbader referred
14 to, which are ECF576-1 and 578-1. Then I think it also is
15 made clear by the parties' joint stipulation to approve the
16 2017 exit plan, to which the 2017 exit plan is attached. And
17 when you look at the 2017 exit plan, you see maintenance by
18 each provision. And that is I believe at ECF579. And then
19 you have the actual 2017 exit plan that we've asked the Court
20 to enter, which is 579-1. And then, finally, it's the notice
21 of compliance. And again, I appreciate, you know, the -- CRI
22 has been a -- a diligent plaintiff counsel to work with.
23 They ask for information on a regular basis. They dig into
24 information. And I'm -- I'm really pleased that we've been
25 able to ultimately reach agreement and not have disputes, and

1 that continues and is reflected in the notice of compliance,
2 where -- and as Mr. Lustbader has said today, that it has --
3 they have no objection to the entry of the proposed order.
4 So that -- I think for purpose -- I think a broad picture is
5 important, obviously, for the Court to understand the context
6 of where we are today, but -- and then I think what is
7 operable for purposes of the order we're seeking is really
8 found from the entry of the exit plan in 2016 to where we are
9 today.

10 THE COURT: Okay.

11 MR. LAKEY: And so we'll certainly make sure
12 that's clear in the -- in the post briefs.

13 THE COURT: And I follow everything you're saying.
14 And just to be clear, and we'll put it in the order, your
15 post hearing filing will set forth what the scope of
16 review --

17 MR. LAKEY: Sure.

18 THE COURT: -- is for me here and my authority to
19 do it.

20 MR. LAKEY: Yes, Your Honor. Yes, Your Honor.

21 THE COURT: And then on page 23 of 579-1 about --
22 what is the focus team? Give me a little bit of
23 understanding about that.

24 MR. LAKEY: I'm sorry. Can you give me that
25 reference again?

1 THE COURT: "The focus team will ensure that all
2 children and youth entering full guardianship each month will
3 be reviewed to determine whether or not these children or
4 youth have a permanent family identified and that the needed
5 supports and services are in place to ensure timely
6 permanency."

7 MR. LAKEY: Your Honor, may I let Commissioner
8 Hommrich answer that because she certainly can give you a
9 better answer than I can.

10 THE COURT: If you want to come to the podium,
11 that's fine.

12 COMMISSIONER HOMMIRICH: My name is Bonnie
13 Hommrich, and I'm the Commissioner for the Department of
14 Children's Services.

15 The focus team was designed to address those
16 children who came into our full guardianship but who did not
17 have an identified family. And so that team meets once a
18 month with regional representatives, and they look -- they
19 endeavor to assure that each child that hasn't got an
20 identified forever family, that there are three primary tasks
21 that they're constantly doing. They're doing what we call
22 archeological digs. And what that means is they are
23 searching for any significant family, significant teacher,
24 somebody important in this child's life that would consider
25 becoming their permanent forever family. So the

1 archeological dig is one. An active child and family team is
2 another element of this. And that -- our whole process is
3 called child and family team teaming. And again that means
4 that you bring all those people that care deeply about these
5 children to the table and keep trying to find permanency for
6 the kids. And then the third element is a robust recruitment
7 plan so that -- in some children you -- you may need to find
8 people outside of their current team. You may be able to
9 find a family in Idaho or Montana that would be willing. So
10 you've got to constantly do that robust recruitment to use
11 every avenue. All three of those together have to be
12 constantly worked. Does that -- is that helpful?

13 THE COURT: No, that's helpful. Thanks.

14 MR. LAKEY: And to that point, Your Honor, I think
15 one of the things that has been really tremendous that DCS
16 has accomplished is return to permanency. You know, you --
17 you don't want -- you want, when a child is in foster care,
18 obviously to be safe, to receive the appropriate services,
19 but the goal is reunification, reunification with the family
20 where possible, and if not the family, to make that decision
21 and then to get the child into a permanent situation so that
22 they can move forward with their life in that permanent
23 situation. The State has done a tre- -- I think that is one
24 of the things that I know DCS is most proud about. The --
25 the evolution of that system and where it is today and it's

1 been reflected I think fairly nationally that Tennessee's a
2 leader in that area, and that's great.

3 THE COURT: And is that an example of what the TAC
4 came up with, Mr. Shookoff and Ms. --

5 MR. LAKEY: I don't -- I think the TAC has had
6 impact on a lot of different areas, whether it was that
7 particular one -- I can't imagine that they didn't have input
8 on it but --

9 COMMISSIONER HOMMICH: I guess what I would say
10 is, if -- some of this comes out of all the robust discussion
11 between the plaintiffs and the TAC and the Department.

12 THE COURT: Okay.

13 MR. LUSTBADER: That's correct, Your Honor. It's
14 sort of -- on that particular item, the issue that it was
15 designed to address, when we filed the case, were preventing
16 kids from languishing in state custody. And then when the
17 Commissioner refers to full guardianship, those are children
18 for whom their parents rights have been terminated but they
19 still don't have a permanent home. And so that's a
20 particularly urgent area. You want to focus returning to
21 family and repairing family at the front end, and if that's
22 not possible we don't want children growing up in foster
23 care. And so that that process was something that was
24 informed by the TAC and best practice and owned locally by
25 the Department of Children's Services as a process to get

1 that rapid permanency result for that group of kids who
2 they've terminated their parents' rights. And so there's one
3 where there's both this process of the focus that you refer
4 to and their actual outcomes with percentages tied to, for
5 example, how quickly after a child is in full guardianship
6 and their parents' rights have been terminated, how rapidly
7 they achieve a permanent home and what percentage of children
8 in that situation achieve that desirable goal. And they've
9 met that goal. And so it's sort of a -- a good illustration,
10 Your Honor, of a combination of between a process and an
11 outcome to achieve a better result for kids.

12 THE COURT: Okay. And then -- and this may be my
13 last question. How did you all end up with Chapin Hall --
14 and I thought Vanderbilt was part of this, too, the
15 accountability center.

16 MR. LAKEY: So Chapin Hall --

17 THE COURT: Chapin?

18 MR. LAKEY: Yeah, Chapin. Chapin Hall has been
19 involved with providing reports and information and studying
20 the information from DCS for years and years. And they're an
21 important partner not only to provide information to the
22 State, but they've been providing information along the way
23 that the TAC relies upon in their report. So they were a
24 natural to go to. And then the Vanderbilt Center of
25 Excellence is working with Chapin Hall. And again, that is

1 an entity that DCS has used on a fairly regular basis and is
2 very familiar with the DCS system. And we thought that
3 since -- I think Chapin Hall is out of Chicago, if I remember
4 correctly. And we wanted to make sure there was a local
5 presence as part of that external accountability reporting
6 center that's required under Section 19. And I think
7 Mr. Lustbader said this. If not, he certainly implied it.
8 And it's true. I mean, that -- that external accountability
9 center is -- we've been -- we've had a lot of conversations
10 with the TAC, and we've had a lot of conversations with
11 plaintiffs' counsel and directly with the accountability
12 center and all those groups together to get it ready to go.
13 And it's established and ready to go once the -- once the
14 order's entered, because that 18 months of its work is tagged
15 to the date of the entry of that order.

16 THE COURT: All right.

17 MR. LAKEY: Thank you, Your Honor.

18 THE COURT: All right. Anything else?

19 MR. LAKEY: No, that is it.

20 MR. LUSTBADER: Your Honor, just for clarity
21 sake --

22 THE COURT: Sure.

23 MR. LAKEY: -- so you can refer to it. Document
24 579, paragraphs 3 through 8 spell out what Chapin Hall's role
25 is -- has been in the case. And why the parties and the TAC

1 felt they were best suited. And then Exhibit E describes --
2 I'm sorry -- Exhibit B to 579 literally describes what the
3 reporting structure would be and their role is.

4 THE COURT: Right. I saw that. Okay. Well, what
5 I want to do is give you all time to make the submission.
6 And I guess it's a little hard for you to determine how much
7 time you're going to need. So I'm going to just set -- but
8 if you need more time, obviously the -- if you want to file
9 things before this date -- and I'm going to just pick June
10 the 22nd if that works.

11 I would ask that you turn documents 583 and 579
12 into motions, maybe joint motions, so I've got something to
13 act on.

14 And then I'll also add to the order a chronology
15 of the case to this point with reference to the docket
16 entries. And again I just need -- give me a chronology and
17 reference me to the docket, and then I can go there and get
18 the details. But just tell me why you all think that's. . .
19 And then a -- I need a little bit better understanding --
20 because this case is actually so old, it's not all on the
21 computer system -- you know, where was the class certified,
22 what is the definition of the class, and notice was given,
23 obviously, to the class, and whose been representing it. I
24 guess they've been going in and out.

25 And then as I indicated, what's my -- what's the

1 scope of my review of these motions you're going to file, and
2 what's my authority to enter it, if it's not Rule 23, which
3 seems to me to be the one. And, of course, you can except
4 out paragraph 19 if there's some future -- and then anything
5 else that will help me rule on this.

6 I will say, I apologize that you've had to sort
7 of, you know, go back and relive the last 17 years, but it's
8 been incredibly helpful for me. I've got a much better
9 understanding and comfort than I did before an hour
10 and-a-half ago. So it's -- for me it's been time well spent.
11 Anything else?

12 MR. LUSTBADER: No, Your Honor.

13 MR. LAKEY: No, Your Honor.

14 THE COURT: All right. Thank you.

15 (Court adjourned.)
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1 REPORTER'S CERTIFICATE

2
3 I, Lise S. Matthews, Official Court Reporter for
4 the United States District Court for the Middle District of
5 Tennessee, with offices at Nashville, do hereby certify:

6 That I reported on the Stenograph machine the
7 proceedings held in open court on June 8, 2017, in the matter
8 of BRIAN A., et al., v. WILLIAM HASLAM, et al., Case No.
9 3:00-cv-00445; that said proceedings in connection with the
10 hearing were reduced to typewritten form by me; and that the
11 foregoing transcript (pages 1 through 44) is a true and
12 accurate record of said proceedings.

13 This the 12th day of June, 2017.

14
15 /s/ Lise S. Matthews
16 LISE S. MATTHEWS, RMR, CRR, CRC
17 Official Court Reporter
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